

SECTION 12.30 TRANSFERS

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Specific information about the transfer process is found in Article VII of each agreement. For collective bargaining purposes, the term transfer refers only to movement by employees between positions **in the same job classification**. (The SPOC collective bargaining agreement recognizes movement between Peace Officers job classes within the employing agency as transfers.)

Employing Units

The agreements specify different transfer procedures for transfers within and between employing units. For each bargaining unit, the employing units are defined in the agreement. The AFSCME agreement has provisions for transfers between state agencies.

An employing unit is not necessarily the same as a work unit. A work unit is usually smaller than an employing unit and is distinguished for purposes of overtime distribution, vacation scheduling, and staffing. It is important that these units be defined within each department.

Transfer Restrictions

- **Eligibility for Transfer**

Under the AFSCME agreement, only contract-covered employees who have been in their current job class for at least six (6) months may request a contract transfer to another position in the same class either within or between employing units, or between state agencies. If, however, an AFSCME-covered employee demotes to an AFSCME-covered job class in a lower pay grade in lieu of layoff, the employee will be immediately eligible to transfer within that job class.

Under the UE/IUP agreements, only contract-covered employees who have permanent status may request a contract transfer to another position in the same class either within or between employing units. Additionally, the employee must meet or exceed expectations on the most recent evaluation; must not have received a disciplinary suspension within the last twelve (12) months; and must not have received a written reprimand within the last six (6) months.

SPOC-covered employees must have permanent status in order to be eligible for transfer.

For all agreements, supervisors are responsible to ensure that the employees making a transfer request are eligible prior to granting the request.

- **Permanent Vacancy**

A permanent vacancy exists when the position meets one of the criteria set forth in the transfer article of the applicable agreement.

The transfer process must be used when filling a permanent vacancy covered by a bargaining agreement. The employer is not required to post a position for transfer if management decides to leave the position vacant.

- **Denial of Transfer**

Note: Transfers for SPOC-covered positions are not mandatory. The employer must accept and review transfer requests but may deny any transfer request.

The employer may refuse an employee's transfer request if it can be demonstrated that the employee does not possess the ability to perform the duties assigned or if the employee does not

meet any special or selective certification requirements of the position. In addition, an employee may be denied a transfer if the transfer would impair operational efficiency. Impairment of efficiency must be substantial in order to deny the transfer request and must be clearly documented.

It is not always possible, however, to deny a transfer on the basis of an employee's lack of skills. For example, if a Maintenance Repairer vacancy required performance of a variety of maintenance activities, you cannot select a single skill and deny transfers on the basis of candidates not having that skill. If a particular skill is absolutely essential to successful performance, contact the agency's personnel officer prior to posting the position. All special skills listed on the job posting must be demonstrably job-related.

Employees may not be denied a transfer for a lack of skill or training if the alternative is to hire or promote someone who also does not possess that skill or training. For example, if there is a vacancy for a trained medication passer and none of the transfer candidates have the required training, the transfer cannot be denied because of the need to substantially retrain or train if the result is that an outsider would be hired and put into a medication passing training program in order to meet the needs of the job.

The personnel officer assigned to the agency should be consulted prior to making a decision to deny a transfer. If an employee grieves the denial of a transfer, the appointing authority is not obligated to transfer the grieving employee into the desired position until directed to do so by a higher authority in the grievance and/or arbitration process.

- **Frequency of Transfer**

AFSCME-covered employees may not contractually transfer more than once every six (6) months either within or between employing units or between state agencies, unless reassigned by management within the six-month period following a contract transfer. If employees are reassigned within the six-month period, their contract transfer right is reinstated. UE/IUP- and SPOC-covered employees may not contractually transfer more than once every twelve (12) months – except that Department of Human Services field office staff and Department of Corrections employees may transfer no more than once every six (6) months – either within or between employing units unless they are reassigned by management within the twelve-month period following a contract transfer. If reassigned, their contract transfer right is reinstated.

EXAMPLE: An AFSCME employee in the blue-collar unit contractually transfers on July 1. On September 10, management reassigns the employee to another position. On or after September 10, the employee may submit a contract transfer request and be eligible to transfer.

AFSCME-covered employees may not transfer more than twice during the two-year term of the collective bargaining agreement. However, if a transfer under the AFSCME agreement is to a position under the supervision of the employee's current supervisor, the transfer shall not be counted toward the limitation of two transfers during the two-year period.

The time period required between transfers begins when the transfer becomes effective, not when the employee makes the transfer request.

- **Pay Upon Transfer**

A contract transfer is made at the request of the employee. Moving expenses will not be granted for contractual transfers. (See exceptions in SPOC agreement.)

- **Recall Considerations**

Employees who have responded to posted vacancies within the employing unit will have priority to the vacancies prior to those vacancies being offered to employees or former employees who have

recall rights from layoff. Check the applicable agreement and [Chapter 4](#) of this manual to determine the order of transfer and recall when filling a vacancy.

Transfer Request Process

Employee transfer requests must be submitted in writing. A standardized form may be made available to employees for their use in seeking transfers within the employing unit.

Transfer requests for between employing units and between state agencies must be maintained and used for two years.

AFSCME- and IUP-covered employees responding to a transfer posting within the employing unit must accept the position when offered if they have not withdrawn their name prior to the closing of the posting period. AFSCME employees have three days (3) to accept or decline an offer to transfer between state agencies.

Transfer between Employing Units and State Agencies

An employee requesting a transfer between employing units or between state agencies needs to submit the request to the prospective employing unit. The request to transfer between employing units or between state agencies must be on file prior to the date the position was posted for transfer within the employing unit. The employee is responsible for submitting a separate request form for each job class in each agency where he or she is interested in transferring.

The request must be complete and legible. Requests that do not comply with the requirements or do not provide sufficient information shall be returned to the employee. Upon receipt at the desired employing unit, the request shall be date-stamped, initialed, and filed.

Timeliness of Transfer Requests: AFSCME

A permanent vacancy is created by transfers within employing units, between employing units with a state agency, and between state agencies. The vacancy must be posted for transfer. To transfer within an employing unit, the employee must file a transfer request during a specified period of time. For transfers between units or between state agencies, the employee must have a transfer request on file prior to the date the original vacancy was posted for within employing unit transfers. The AFSCME agreement requires the application of the transfer procedures to the original vacancy and the subsequent six (6) vacancies resulting from the filling of the original vacancy. Regardless of whether the vacancy is the original vacancy or one of the subsequent six (6) vacancies, an employee's transfer request is considered timely as long as it was received by the applicable personnel office of the agency or institution prior to the posting of the original vacancy.

Contacting the Candidate

It is appropriate to contact transfer candidates from other employing units by telephone or mail to offer the job, pass on specifics about the job and reporting time, and elicit necessary information from the candidate. To speed up the process, all candidates may be contacted at the same time, advised of their seniority with respect to others who have requested transfer, and questioned regarding their interest in the job should they become the most senior candidate. All candidates who are contacted should be subsequently advised if a more senior candidate accepts the position.

Before an employee is officially advised of a transfer offer between employing units, the agency's personnel assistant or the supervisor filling the position must contact the transfer candidate's present agency's personnel assistant or supervisor to determine whether the employee is eligible to transfer under the terms of the applicable collective bargaining agreement.

Reporting Time

In situations of between employing units or between agencies transfers, a candidate must be willing to report for work within a reasonable time which is normally considered to be two weeks or the beginning of the next pay period. That time may be extended if the vacancy can remain open for additional time, or if both the sending unit and receiving unit agree on additional time.

Filling Vacancies

For additional information on the procedures for filling vacancies, see [Chapter 4](#) of this manual.